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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,132	12/05/2005	Stefan Wilhelm	LINDE-627	2561
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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.				
2200 CLARENDON BLVD.				
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ARLINGTON, VA 22201				
EXAMINER				
DOERRLER, WILLIAM CHARLES				
ART UNIT		PAPER NUMBER		
3744				
MAIL DATE		DELIVERY MODE		
01/28/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/520,132

**Applicant(s)**

WILHELM, STEFAN

**Examiner**

William C. Doerrler

**Art Unit**

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF 298)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

The finality of the 7-16-2008 action is withdrawn. This is due to the citing of new art in a new rejection, that follows.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGrath et al (5,875,599) in view of the '918 British patent from the IDS. Goldstone et al disclose applicant's basic inventive concept, a rectangular bottomed (see figure 5), metal lined (see line 9 of column 6) insulating enclosure having frame members 30c as parts of each of the panels, substantially as claimed with the exception of forming the sheet metal lining using sheet metal panels which are held together with a frame of U-shaped members. The '918 British patent show this feature to be old in the metallic enclosures art. It would have been obvious to one of ordinary skill in the art

at the time of applicant's invention from the teaching of the '918 British patent to modify the enclosure of McGrath et al by forming the sheet metal lining with common sized panels that are held together with a framework to provide a fluid tight, durable enclosure that can be readily transported and assembled. In regard to claim 5, the size of the panels is seen as a matter of design choice for an ordinary practitioner in the art. Applicant's claimed size range is seen to be in the range that would have been obvious to an ordinary practitioner in the art to provide panels that are easily transported and easy to assemble. In regard to claim 8, Official Notice is taken that it is well known in the sheet metal fabrication art to screw pieces together to provide an easily assembled, removable connection (see figure 4a of McGrath). In regard to claim 10, the mounting of components to frameworks is well known in the art to provide a strong foundation for supporting the component. Preassembling a portion of the wall before it is integrated into the sidewall is seen as obvious to one of ordinary skill in the assembly of structures art. Portions of walls are customarily partially assembled and then added to the whole. Figure 4b of McGrath shows multiple panels forming a wall unit. In regard to claim 12, the thickness of the sheet metal is seen as a matter of obvious design choice for an ordinary practitioner to provide the required protection as economically as possible. In regard to claim 13, figure 4 of the British patent shows legs extending to the outside of the frame. In regard to claim 14, the U shaped frame members of the British patent are seen as equivalent to two L shaped members in regard to providing stiffness.

Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstone et al in view of the '918 British patent as applied to claims 1-14 above, and further in view of Bardo et al (5,236,625).

McGrath, as modified, discloses applicant's basic inventive concept, an insulated housing for a cryogenic device with sheet metal panels of a common size, substantially as claimed with the exception of using round diagonal braces. Bardo et al show this feature to be old in the framework art (see 221 and 223). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention from the teaching of Bardo et al to modify the supports of McGrath et al by using diagonal braces to improve the rigidity of the framework.

Claims 2-5, 7-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGrath et al (5,875,599) in view of Voegeli et al (4,739,597). McGrath et al disclose applicant's basic inventive concept, a rectangular bottomed, metal lined insulated enclosure formed from panel members with integral framing members which are fastened together to form the enclosure, substantially as claimed with the exception of using U-shaped members to hold the panels together. Voegeli et al show this feature to be old in the metallic enclosures art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention from the teaching of Voegeli et al to modify the enclosure of McGrath et al by forming the enclosure with common sized panels that are held together with U-shaped members to provide a fluid tight, durable enclosure that can be readily transported and assembled. In regard to

claim 5, the size of the panels is seen as a matter of design choice for an ordinary practitioner in the art. Applicant's claimed size range is seen to be in the range that would have been obvious to an ordinary practitioner in the art to provide panels that are easily transported and easy to assemble. In regard to claim 10, see the mounting of lamps 123 in the interior of the panels of Voegeli et al. Preassembling a portion of the wall before it is integrated into the sidewall is seen as obvious to one of ordinary skill in the assembly of structures art. Portions of walls are customarily partially assembled and then added to the whole. An example of this is framing a wall and then fastening multiple walls together to frame a building. In regard to claim 12, the thickness of the sheet metal is seen as a matter of obvious design choice for an ordinary practitioner to provide the required protection as economically as possible.

### ***Response to Arguments***

Applicant's arguments with respect to claims 2-16 have been considered but are moot in view of the new ground(s) of rejection.

McGrath et al show the use of insulated metal lined panels with integral frame members which are fastened to assemble an enclosure. This is disclosed to be formed around units desired to keep cold, as is the case with air separation systems.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tennant, Johnson, Honigman, both Ting patents, Berliner, Kotcharian and Widdowson all show modular panels with integral framing members.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Doerrler whose telephone number is (571) 272-4807. The examiner can normally be reached on Monday-Friday 6:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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WCD

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